# CHILD LABOR LEGISLATION AND METHODS OF ENFORCEMENT IN NORTHERN CENTRAL STATES

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The enforcement of child labor laws is, in effect, an attempt to reconcile by law two apparently diverging economic interests. The child labor problem has been co-existent with the growth of manufacturing and early required the attention of state legislatures. Half a century ago child labor laws were found on the statute books of some of the Northern and Central States. These early efforts were crude and ineffective, but they formed the nucleus of the present fairly comprehensive systems which have to a large extent allayed the evils of child labor.

From the outset these laws have had to contend with a large variety of deterring influences. Manufacturers with the ever increasing desire for high profits, the lack of sympathy for the laboring classes, and in many instances the honest belief that child labor was necessary for the continuance of their business, together with the natural opposition of the employees who considered such laws as an infringement upon their personal liberty and privileges, made difficult the enactment of proper laws, and because of which enforcement was practically impossible. With the rapid growth of manufacturing in these states public opinion and the majority of the employers have come to understand the necessity and eminent fairness of restrictive legislation.

The development of the child labor laws has been in many instances a series of compromises. Nearly every step forward was gained by the sacrifice, temporarily at least, of some provision which in that respect was a regressive movement, so determined was the opposition. One state after another adopted measures which on their face appeared to reach the difficulty, but which failed of their purpose because they lacked the first essential of a successful child

labor law, an appreciation of the weakness of human nature, and adequate provisions for enforcement. Our whole experience with law and order demonstrates that to arouse public interest in the child, to awaken from lethargy the public official to the realization and confession that a genuine evil exists, is a comparatively easy matter; but to crystallize this sentiment into law, to enact a system of corrective legislation supplemented by adequate machinery of enforcement is a proposition fraught with no little difficulty. It has always been easy to convince, but hard to persuade.

The gradual growth of this class of legislation in the Northwest from the earliest efforts down to the present time can best be observed by tracing the development in one particular state and comparing the problems and the attempts at solution with similar tendencies in the neighboring commonwealths. The state of Wisconsin will be taken for this purpose, first, because of its varied experience with child labor legislation, and, secondly, because through its remedial statutes it has constructed probably one of the most effective systems.

Wisconsin first recognized the child labor problem in 1877 by a law which prohibited the employment of children under 12 years of age, during the school year, in factories where conditions were deemed injurious to their health. The law was a failure, so far as results were concerned, because of its indefinite application, low age limit, and its failure to provide any effective means for enforcement. It only provided that district attorneys should prosecute violations on complaint, but there being no one charged by law with the duty of investigating the places of employment, few complaints were made, and the law was very generally disregarded. Amendments in the following year made the law more definite and certain, but still provided no means for enforcement. The legislature failed to realize that men who see a pecuniary profit in violating a law will not desist simply to satisfy their conscience as to the commission of an act merely prohibited and made illegal.

In 1883 the bureau of labor was created and charged with the duty of enforcing the law, but was given no facilities for doing so. This act was an important step, not so much for its own provisions, but in that it provided a framework about which to erect the machinery for enforcement which it was seen would have to be adopted in the near future if the child labor law was ever to become more

than a mere threat to the violators. In 1885 a factory inspector was provided for, but as his duties went no further than to post the law in the places of employment inspected by him, his influence was really small.

In 1889 the legislature made a general revision of the child labor laws. The age limit was raised to thirteen years, and the law extended not only to factories, workshops and mines, but also to stores, places of business and places of amusement. This measure by its increase in the minimum age limit, and extended scope, represented a considerable advance in the accepted views as to restrictive legislation, but the one positive essential to a successful and adequate means for enforcement, was still lacking.

Another weakness of the law of 1889 was the introduction of the permit system. While it made unlawful the employment of children under thirteen years of age, it authorized the county judges to grant permits at their discretion, excepting from the operation of the law children over ten years who could read and write English. It was the intention of the permit provision so to modify the law as to enable persons really in need of the earnings of their children to get early assistance from this source. This system presupposes that the officer granting the permit will make an investigation of each particular case. Since in practice, the only source of information to the judge is the applicant himself, it was not surprising that the prospect of exemption from the law should awaken a disregard for the truth, and the officers be overwhelmed with tales of misfortunes. The judges, whose regular duties already more than occupied their time, found it impossible to investigate each case, and giving the applicant the benefit of the doubt, generally granted the permit. Under this practice the restrictive age was really lowered to ten years, making it a regressive rather than a progressive provision.

In 1891 the legal age was again increased from thirteen to fourteen years, and the minimum age at which county judges could grant permits was raised from ten to twelve years. This law also made it the duty of the labor commissioner and factory inspectors to prosecute violations of the law. But the entire factory inspection force at this time consisted of only two persons. To inspect the factories of the state and to enforce laws relating to dangerous and unsanitary conditions of employment, fire-escapes and other safe-

guards of the public health in accordance with those laws which were capable of enforcement and violations of which were more readily detectable was a much larger task than would occupy the time of the most diligent inspectors. Moreover, their time could be devoted to this work with far greater profit to the state than could possibly result from the thankless and disagreeable task of attempting to enforce child labor laws which were entirely inadequate and destined to prove a failure from the start. So that, while on the one hand the lack of provision for enforcement of the law operated to divert the attention of the factory inspectors to other more fruitful laws, the permit system, on the other hand, operated to virtually legalize the employment of child labor down to the limit of ten or twelve years of age and in many instances to vitiate whatever enforcement was attempted.

The situation in Wisconsin under this law is aptly summarized by the Commissioner of Labor in his report for 1897-1898. He says: "To completely enforce the law has been found very difficult. The reasons for this may primarily be found in the facts that it is so frequently violated and that these violations are, as a rule, very hard to establish. The reasons for this are easily guessed at. The inspectors cannot tell the exact age of the child from its appearance alone. By common understanding the children themselves, their parents, and not seldom the employer, usually endeavor to deceive the inspectors on this point. Besides this there is in this state a notable lack of reliable or complete birth records. Roundabout and laborious methods are therefore necessary in order to obtain data relating to the ages of children that are complete enough to furnish a safe basis for further proceedings. While the first step to obtain data as to their ages consists of a personal examination of the child, this seldom brings the desired result. They are ready enough to answer all questions, but experience soon teaches that the replies given concerning their ages cannot be depended upon. As a rule, the children do not only studiously misrepresent their age, if younger than the age limit fixed by the law, but besides this they also, as a rule, are provided with certificates signed by their parents or others concerned showing that they are fourteen years of age or past, regardless of the facts of the case. Cases have even been met with where parents, anxious to either obtain employment for their little ones or to keep them at work, have changed the records of their

ages in the family Bible and other places. Numerous other devices for the purpose of deceiving the inspectors are constantly resorted to. The obstacles of all kinds which the inspectors must overcome in order to perform their duties are often both unpleasant and very difficult."

It was not until 1899 that the Wisconsin child labor problem was taken up by the legislature in anything like a serious manner. The law then adopted retained the permit system to exempt children in needy circumstances, but the authority to grant such permits was also vested in the labor commissioner and factory inspectors. The most important provision, however, was in the recognition of the cause of former failures, that is, the lack of provisions for enforcement, and hence when this law provided for six additional factory inspectors it appeared that the day of rigid enforcement was now at hand. The law prohibited the employment of children under fourteen years at any time in factories, shops or mines and at any time except during the vacation of the public school in stores, laundries and the messenger service. By an amendment in 1901, the application of this law was extended to prohibit the employment of children under fourteen years of age in bowling alleys, bar-rooms and beer gardens. The law also authorized the commissioner of labor and the factory inspectors to prosecute all violations of the law, and added a new provision which required employers of child labor to have and keep on file and accessible to the factory inspectors, affidavits of parents of all children under sixteen years of age. These affidavits were to be regularly sworn statements, showing the name, place and date of birth of the child and the place and time of school attendance. By this latter provision it was not intended to restrict child labor under sixteen years, but by requiring the affidavits for all children under that age it was believed to be easier to enforce the restriction as to fourteen years.

It was hoped that this provision would help to solve the child labor problem. Indeed, the first few months of its operation bore out this expectation, but an unfortunate tendency soon manifested itself, the temptation to falsify affidavits. In anticipation of just such methods the affidavit had required a statement of school attendance, to be referred to in case of discrepancies, but the number of obviously false affidavits increased so rapidly that inspectors found themselves swamped in trying to investigate them. Employers in

the name of industrial necessity secretly encouraged this demoralizing tendency adopted by unscrupulous parents, which robbed the schools and instructed the children in the arts of falsification, as to the extent of which they had not the slightest conception. The rapid growth of this vicious practice demonstrated emphatically that the affidavit system was not adapted as a means for successful enforcement of child labor legislation.

The facts growing out of this condition of affairs were laid before the legislature of 1903 which again revised the law, abolishing the affidavit system and in place of affidavits by parents required all employed children from fourteen to sixteen years of age to obtain permits from the commissioner of labor, factory inspectors, or judges of the county, municipal or juvenile courts, authorizing the employment of the child during such time as the officer granting the permit may fix. These officers are required to keep a record of the name, age and school attended by such child and a report as to the number of permits issued must be sent to the commissioner of labor or factory inspector. When the granting officer has reason to doubt the age of any child applying for a permit he may demand proof of such child's age by the production of a verified baptismal certificate, or a duly attested birth certificate, or in case such certificate cannot be secured, then the record of age as stated in the first school enrollment of such child, and in case no such proof can be secured then by the production of such other proof as will satisfy the officer authorized to issue the permit. No permit is to be granted under this law unless proof of the child's age is filed with the commissioner of labor or other granting officer. The filing of such a permit by the employer is a condition precedent to legal employment. A child of legal age finds little difficulty in securing satisfactory proof, but it is practically impossible for persons not entitled to permits to deceive a diligent official. Under this law it is possible to enforce the child labor law in Wisconsin, a thing impossible under the affidavit system.

Turning now to the other Northern Central States, the first child labor laws were adopted as follows: Ohio in 1852, Illinois in 1877, Indiana in 1881 and Michigan in 1885. These laws, with the amendments adopted by the next succeeding legislatures prohibited under a penalty the employment of children in certain occupations which were deemed especially injurious to them, fixed the age limit

under which no child could be employed at any labor, and fixed the number of hours they might be employed in other occupations. The age limit for factory work was placed at twelve years in Illinois, Indiana and Ohio, and at fourteen years in Michigan unless such child had attended public school for four months of the year in which he sought employment, when the age limit was put as low as ten years.

Adequate penalties were provided in each case for violations, but the laws were of little avail because of their indefiniteness, low age limits, and like the Wisconsin laws failed principally because they did not provide means for enforcement. Each law provided in effect that a violator of the same should be liable to prosecution before any justice of the peace or court of competent jurisdiction in the county in which the illegal employment was given, but left the duty of instituting such prosecutions to irresponsible and voluntary initiative. As was to be expected, few complaints were ever made to the district attorneys and prosecutions were so rarely heard of that instead of restricting the employment of children, the law was ineffective and child labor increased with the rapid growth of manufacturing. The legislatures had not yet learned that a social evil is not remedied merely by making it illegal.

To better enforce the law bureaus of labor and departments of inspection were created, entrusted with the duty of prosecuting violations of the law. Along with these provisions was a general movement to increase the age limit to fourteen years and extend the application of the law to mercantile establishments, offices, hotels, laundries, etc. Manufacturers were required to keep a record of all minors in their employment, stating their names, ages and residence, which were to be substantiated by affidavits of parents, kept on file. Factory inspectors were authorized and empowered to visit and inspect all manufacturing and mercantile establishments and report all violations to the district attorneys who were to prosecute such violations. Ohio adopted such a law in 1885, Illinois in 1893 and Indiana in 1897.

Michigan did not follow this course in her legislation. It placed the duty of enforcing the child labor laws on the local police force. The chief or superintendent in all cities was authorized to inspect places of employment and prosecute any violations of the law. If necessary he was empowered to detail a part of the force on duty of

this nature. In the city of Detroit the board of building inspectors was given concurrent jurisdiction with the police, while in towns the duty of enforcement was placed on the supervisors. This law was repealed in 1895 and as in other states the enforcement was placed in the hands of factory inspectors.

The legislation of this period which for convenience may be called the second period of development, introduced the affidavit and permit systems. By these laws a minor applying for employment was required to present an affidavit from his parents or guardians stating his name, age and residence, which was to be placed on file by the employer for reference in case of investigations. As the laws only fixed a minimum age and made in several instances two exceptions, first where the earnings were necessary to support parents in indigent circumstances, and second, the permitting of employment during school vacations, and such periods as the compulsory education laws permitted, a ready method for evasion was provided which was not long neglected. In each of the states, parents finding the comparative ease with which the law could be evaded easily, yielded to the temptation to forswear themselves and many children were found at work who were clearly not of the required age, yet possessing the proper affidavits could not be removed. Record evidence not being available for comparison as to ages, and the number of inspectors in each state being far too inadequate to deal with the question properly, the number of children employed was not very materially reduced. In Illinois alone the number of child laborers seems to have doubled during five years and Ohio and Indiana showed large increases.

The present laws are the result of efforts to remedy practically similar difficulties and as might be expected have many provisions in common. The minimum age limit is placed in all the states at fourteen years except in Ohio where it is thirteen years. Manufacturers are required in some states to keep the regular record of minors employed and to post in a conspicuous place a list of such minors with the ages which are to be substantiated by affidavits of the parents placed on file with the employers, and to be submitted to the factory inspectors on request. The Wisconsin provision for enforcing the fourteen year limit by requiring permits for all children up to sixteen years is in general use. The Ohio law provides that no boy under fifteen years and no girl under sixteen

years is to be employed for wages at any time while the public school is in session. Indiana prohibits the employment, except during school vacations, of children under sixteen years who cannot read or write simple English sentences.

The operation of the affidavit system as it is in vogue in these states seems far from satisfactory and reflects all the weakness of the Wisconsin law of 1899. Such a system is necessarily based on the theory that the parent in making the affidavit will be guided by perfect honesty. Experience shows that just the contrary is true. These laws all have the same end in view, the provision for the safe-guarding of life and health and a development in harmony with industrial and educational civilization, but their ineffectiveness is largely due to a lack of understanding of the fallibility of human nature. Where the game is worth the candle human ingenuity is well nigh inexhaustible, and even to maintain existing regulations constant vigilance of legislative bodies is necessary. Some people will always evade the law, but when opportunity is given so that violations become so frequent and insistent that the limited number of inspectors find it impossible to compare the affidavits with record evidence, the law ceases to be effective, perjury and dishonesty receive material rewards and the prohibitive law becomes permissive. Such affidavits cannot be easily attacked since the burden of proof in each case is on the inspectors. Where parents refuse to forswear themselves or the violation is so flagrant as to be apparent on the mere examination of the child the law does succeed in reducing the number of child laborers. Two other expedients have also been adopted. They are, first, the requirement of certificates of physical fitness, and secondly, requirements for a knowledge of reading and writing. The first provision enables the factory inspectors to require any child which appears to him to be physically unfit for labor to undergo a physical examination and is only retained in employment when such examination reveals a healthy constitution. This provision has been very effective in removing from the glass, cutlery and garment trades a large number of cripples and deformed children. The educational provision has been more difficult of enforcement due to the lethargy of school authorities.

Experience shows that it is wrong both in practice and principle to permit any exemptions from the law. Indeed to do so is really to amend the law and substitute the exceptions in place of

the original intention of the law. To authorize the employment of a child because his parents are in need of his earnings is only a temporary expediency which instead of being beneficial is often a detriment to parent and child alike. It encourages indolence and dependence in parents for which it sacrifices the health of the child. It is better that the state should support a few really needy families than to favor a practice which abrogates the law. Further, the granting of permits during the school vacations changes the habits and ambitions of children and enables them to become employed in factories where, once legally entered, factory inspectors cannot always find them. On account of the comparatively short period of the compulsory school attendance the law is also often restricted so as to apply only to about half of the year and in some states to even less.

Illinois in its latest law has avoided the evils of the affidavit system. This law, adopted in 1903, besides the common provision for the maintenance of a register and record of the minors employed, requires as a condition for employment the deposit of an age and school certificate by the child, this certificate to be approved by the school superintendent or director or by some one authorized by him in writing. The certificate is in no case to be approved unless record evidence as to age is given, but where such evidence is not obtainable the information may be given by the parents. The law requires the school board to provide an office where the certificates are to be issued and recorded, and age statistics to be maintained. But before the age certificate is accepted a certificate of school attendance must first be presented, a duplicate of which is sent to the factory inspector's office. No minor between fourteen and sixteen years is to be employed who cannot read and write simple sentences, in cities where public and evening schools are maintained, unless such minor attends the evening school or is employed during the vacation only. Complaints for violation of the law may be made to the school board of the district which is to report them to the factory inspectors for prosecution.

This law escapes the evils which confront Michigan and Indiana, and which also confronted Wisconsin under the law of 1899, in that it does not go to the parents for information until the last resort. The board of education is required to maintain a complete record of ages of all children in its district. Since a copy of these

certificates is required to be deposited with the factory inspector's office, any discrepancies or suspicious circumstances can easily be detected. The means by which this law can be evaded is where parents must be asked for information and in the forging of certificates. In suspicious cases evidence can thus be obtained without difficulty and as many as from 1,000 to 1,500 violations are successfully prosecuted annually.

There should be mentioned in this connection a growing tendency to place in the inspectors a large discretionary power. Inspectors on their tours found large numbers of children who were over the minimum age engaged in occupations which slowly but certainly were crippling them, injuring their health or exposing to danger their limbs or very life itself. This gave rise in Ohio to a provision which has since been adopted in substance in Michigan and Illinois, and which provides that no child under sixteen years of age shall be engaged in any employment whereby its life or limb is endangered or its health is likely to be injured, or its morals may be depraved, and places the duty of enforcement on the factory inspectors. The Ohio provision was general and indefinite and compelled the inspectors to define such dangerous occupations. An extensive classification of occupations was made including in such danger list every operation which could in any manner be construed to be dangerous to health or morals, and so rigidly is it said to be enforced that the employment of children under sixteen years in such occupations has become practically impossible. Illinois, in its law of 1897, had a provision very much like that of Ohio, but in the law of 1903, rejected the general terms and prohibited absolutely the employment of children under sixteen years of age in a large number of enumerated occupations, as the cleaning and oiling of machinery, operating cutting and stamping machinery, and handling injurious chemicals. The effect of this law has been to raise the minimum age to sixteen years in all dangerous occupations in those states which have adopted such a statute and where it is enforced.

But the child labor law, no matter how drastic its terms or how rigid its provisions for enforcement, is still destined to failure so long as legislatures fail to appreciate that its success is largely determined by supplemental legislation. By discharging the child from employment, but going no further than that, the state has only partially discharged its duty. Idleness in a large city is not always to be

preferred to some kinds of employment, but in no case is employment to be preferred to the public schools. Many states boast on their statute books a law which appears to be far-reaching enough, but which does not accomplish the full measure of good because it only causes the discharge of the child who immediately seeks employment in some other occupation, equally in violation of the law, or what is often even worse, leads a life on the streets. The child labor laws cannot be enforced as a unit. They can never accomplish their real end until the whole child problem is regarded as one distinct entity, and there is enacted a comprehensive scheme of which the child labor law and the compulsory educational law are integral parts. The educational system must be so adapted to the industrial system, dovetailed into it, so as to give the widest possible range of school life consistent with industrial training and ultimate social good, and the machinery of enforcement of both must be made to work in harmony and co-operation.

The Northern Central states now recognize this necesary interrelation. Each of these states has a compulsory educational law requiring school attendance up to the minimum age of employment. For the enforcement of these laws truancy officers are provided, whose powers and duties vary somewhat in the different states. The laws of Indiana, Illinois and Michigan go no further than to direct the truancy officers to investigate and report violations of the laws to parents and to prosecute those liable. The Illinois law is in reality stronger than would appear from a reading of the section because the labor laws vest in the school authorities the power and duty to grant the age and school certificates for employment and sending copies thereof to the factory inspectors. Ohio has vested her truancy officers with police powers and authorizes them to enter factories and other places of employment of children, to discharge the children and place them in the public schools and to prosecute both the parents and the employer for the violation. Wisconsin has not given the powers of factory inspectors in this regard to the truancy officers, but makes up for this partially by giving to the factory inspectors all the powers of truancy officers, thus enabling an inspector to follow up a discharge from employment and place the child in the control of the school authorities.

It would appear from this review that the future development of child labor legislation is likely to vary somewhat from certain

existing provisions. The experience of every state with the affidavit system shows conclusively that other means of enforcement must be adopted. The legislatures must consider that to permit opportunity for evasion means to sanction evasion. In this respect the present Wisconsin and Illinois laws offer some relief in placing the power to grant permits beyond the influence of parents. The difficulty to-day, as ten years ago, is still with the enforcement of the law. Then it was more a matter of error in method; to-day it is insufficiency of means. Every state has placed the duty of enforcing the law upon the factory inspectors, but no state has a force of inspectors large enough to cover thoroughly the field and give it such consideration as it requires. Prosecutions have been numerous and have succeeded in causing employers to hesitate before they entered upon an agreement for illegal employment. With the great industrial activity of recent years the number of violations of the law has increased to some extent, but the chief remedy for this lies in extending and adding to the inspection force.

Child labor legislation in the Northern Central States to-day occupies a favorable position. This is due largely to the change of opinion by the public and by the employers as a body. Public opinion is not created in a day nor does it always act promptly even after it has been aroused. The bureaus of labor and factory inspection have, through their persistent work, helped to place this problem in its true light and this in turn has assisted in creating a general demand for effective child labor laws. Further, the employers who formerly fought every step in the progress of this legislation have since learned that the evils which they feared were largely imaginary and that industry will not suffer if the law is uniformly enforced. In fact some of the strongest supporters of child labor laws to-day are employers who formerly opposed them. Another force which tends to alleviate the difficulties is the growing efficiency of the school laws, and the passage of statutes prohibiting the employment of children in violation of the school laws together with the granting of concurrent powers for the enforcement of these laws to the factory inspectors and the truancy officers. These forces in their slow but not uncertain way, are bringing together the child labor law and the compulsory educational law into the harmonious relationship of one complete scheme, where each, though thorough, in its narrow sense, must in its broader meaning be a supplement to the other.